


The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below. This document was signed electronically on July 22, 2019, which may be different from its entry on the record.

**IT IS SO ORDERED.**

**Dated: July 22, 2019**



  
ARTHUR I. HARRIS  
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE RICHARD M. OSBORNE, SR.  
*Debtor*

CASE NO. 17-17361  
JUDGE ARTHUR I. HARRIS  
CHAPTER 7

**AGREED ORDER GRANTING IN PART AND ADJOURNING IN PART THE EMERGENCY MOTION OF  
DEBTOR RICHARD M. OSBORNE, SR. FOR IMMEDIATE TURNOVER OR RELEASE OF PERSONAL  
INCOME AND SOCIAL SECURITY PAYMENT**

Before the Court is the Emergency Motion of Debtor Richard M. Osborne, Sr. for Immediate Turnover or Release of Personal Income and Social Security Payment [Doc. 493] (“Motion” and “Debtor”) and the Limited Objection thereto (the “Objection”) [Doc. 503] filed by Kari B. Coniglio, the Interim Chapter 7 Trustee (the “Trustee”) and the objection raised by Citizens Bank, N.A. at the hearing on the Motion, which was held on July 16, 2019 at 10:00 AM, the Chapter 7 Trustee, Citizens Bank, N.A. and the Debtor agreeing to the entry of this Order, the Court finds and orders as follows:

**THE COURT FINDS:**

A. The Debtor asserts that he receives as personal income \$2,637 in Social Security payments (the “Social Security Payments”), \$5,000 per month from the Estate of Jerome T

Osborne, Sr. (“JTO Estate”) for his services as a co-executor of that estate (the “Administration Payments”), and \$12,500 per month payable from the JTO Estate to his wholly owned company 5580 Woodside LLC (the “Woodside Payments”) for acting as the real estate manager to the JTO Estate.

B. The Trustee disputes the Debtor’s characterizations of the Administration Payments and the Woodside Payments as exempt from the estate as “personal income” or “earnings”; however, the Trustee concedes that the Social Security Payments are exempt from her administration.

C. The Debtor asserts that his Social Security Payments are automatically deposited into a checking account at Erie Bank with the last four digits of 5299 (the “Personal Account”). The Debtor also asserts that the Administration Payments were deposited into the DIP account and the Woodside Payments are deposited into another checking account at Erie Bank in the name of that entity (the “Woodside Account”) on a monthly basis.

D. On or about July 5, 2019, the Debtor deposited \$11,291.25 into the Personal Account from a check drawn on the Woodside Account, an amount which the Debtor claims represents the post-conversion balance of the Woodside Payment due to the Debtor for the month of July.

E. The Trustee disputes the Debtor’s entitlement to any portion of the Woodside Payments for July 2019.

F. The Debtor also attempted to deposit \$4,516.50 drawn on a check from a debtor-in-possession account maintained by him at the Huntington National Bank (the “DIP Account”) into the Personal Account; however, that check did not clear the DIP Account and thus the deposit was not consummated.

G. Both the Personal Account and the DIP Account are presently frozen by the respective banks upon the direction of the Trustee.

H. Notwithstanding their differences as to the characterization of the funds in question, the Trustee and the Debtor have reached an interim agreement regarding a release of the freeze from the Personal Account, subject to the reservations and protections set forth herein.

THE COURT ORDERS:

1. Erie Bank is hereby authorized and directed to release the freeze of the Personal Account in part subject to the conditions set forth herein;

2. The Debtor may deposit his Social Security Payments and may make withdrawals of the Social Security Payments – an amount not to exceed \$2,637 in withdrawals per month – from the Personal Account provided he is not in breach of the terms of this Agreed Order;

3. The Trustee's and Citizens Bank, N.A.'s rights to dispute, and the Debtor's assertion of, the characterization of the Administration Payments and the Woodside Payments and to seek turnover of any of Administration Payments and the Woodside Payments are both hereby expressly preserved; and set for further hearing on July 30, 2019 at 10 AM.

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